from which institution he was graduated with high honors. He then associated himself with the Hon. Edward A. Armstrong, and subsequently was appointed to fill the office of Assistant Prosecutor of the Pleas of Camden County, New Jersey, which office he filled with great tact and intelligence until his death.

Mr. Carson's connection with the Law Department of the University of Pennsylvania began two years ago, when he was appointed a lecturer on law. Since then he has conducted a very successful course on the "Law of Carriers." He was a bright and intelligent man, with much ability and a most promising public career before him. He took a very conspicuous part in all reform movements, and during his incumbency as Assistant Prosecutor, was instrumental in bringing about the conviction of many violators of the law.

His loss is deeply felt by his many friends and brothers in the legal profession, not only in the community in which he lived, but in Philadelphia as well.

CONSTITUTIONALITY OF STATE STATUTE IMPOSING AN ATTORNEY'S FEE AS A POLICE REGULATION; FOURTEENTH AMENDMENT. The Supreme Court of the United States in the case of *Atchison, &c., Ry.* v. *Matthews*, 19 Sup. Ct. Rep. 608 (April 17, 1899), affirmed the constitutionality of a statute of Kansas (Sess. Laws, 1885, p. 258, c. 155, §§ 1, 2), requiring a reasonable attorney's fee for the plaintiff to be allowed against a railroad company for damages from fire caused by the operating of its trains, and also changed the rules of evidence in favor of the plaintiff in such a case, so that mere proof of damage should be *prima facie* evidence of negligence against the railroad in such cases. The statute made no provision for recovery by the railroad of a reasonable attorney's fee in case it won the suit. It was argued that this was class legislation inasmuch as railroads were singled out and alone made subject to such penalties, and, moreover, were denied equality before the law, since in such a suit, it might in any case lose, but in no case recover an attorney's fee. The majority of the court in sustaining the validity of the statute pointed out the two classes of cases in which such regulations had been attempted; one being where the imposition was in the nature of a penalty for not paying a debt, and the other where it was in the nature of a police regulation. In the former it would not be sustained, while in the latter it would be. They then decided that this statute was a police regulation, in view of the great danger from fire in a state like Kansas, and the necessity of enforcing the utmost precautions to guard against it. They meet the argument that the statute conflicts with the Fourteenth Amendment by pointing out that the amendment does not forbid classification, and cite numerous cases to show that the Supreme Court has upheld classifications so long as they were not arbitrary. One of the most recent cases of importance of this kind is *Magoun* v. *Bank*, 170 U. S. 283 (April 25, 1898), upholding a classifica-

tion of decedents' estates based purely on the size of the legacies therein. As Mr. Justice Brewer pointed out in his dissenting opinion in that case, such a classification would seem to be as purely arbitrary as it would be possible to make one.

In the present case Mr. Justice Harlan (with whom concurred Mr. Justice Brown, Mr. Justice Peckham and Mr. Justice McKenna) delivered a dissenting opinion in which he discusses the question at great length and in a most interesting manner, pointing out that the inequality such a statute puts upon the parties to such a suit, and also the way in which railroads are picked out and set apart from other persons, natural and artificial, and denied rights given to all the others. He denies that this is properly a police regulation, but merely a penalty, and that the decision is inconsistent with that of *Ry. Co.* v. *Ellis*, 165 U. S. 150 (Jan. 18, 1897). He holds the classification of railroads as such for purpose of imposing penalties to be purely arbitrary. The court seems to be in a hopeless state of confusion over this subject of classification under the Fourteenth Amendment, for Mr. Justice Harlan, Mr. Justice Brown, Mr. Justice Peckham and Mr. Justice McKenna all concurred in the judgment of the court in the Magoun Case, while Mr. Justice Brewer, who dissented in the Magoun Case, concurs in the judgment of the court in the present case. It is unfortunate that on a question of such importance, and one occurring so often, as what is a proper classification within the Fourteenth Amendment, the Supreme Court of the United States cannot formulate some definite rule or policy and present a united front and thus dispel doubt and discourage litigation on this troublesome question.

BOOK REVIEWS.

THE LAW OF REAL PROPERTY. Edited by TILGHMAN E. BALLARD and EMERSON E. BALLARD. Volume V. Logansport, Ind.: Ballard Publishing Company. 1899.

The fifth volume of Ballard's Annual differs in no important respect from its predecessors. The plan, while unique, is no longer novel, as the profession has become accustomed to it by the use of the four volumes previously published. The work is carefully arranged and shows a just discrimination in the indication of the relative merits of the cases cited. The editors claim that no decision on a point of real property has been omitted. The book is far more satisfactory than any digest could be for the purpose of finding the authorities, and goes further than a digest in that it gives enough to show which of a number of cases is the one the reader needs for the particular point he is looking. It is intelligent and intelligible, which most digests are not.

O. J. R.